



## **COUNCIL CHAMBERS**

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Steve Tate, Mayor	Steve Tate, Chair
Marby Lee, Mayor Pro Tempore	Marby Lee, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

**WEDNESDAY, OCTOBER 1, 2008**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL REGULAR MEETING**

**AND**

**REDEVELOPMENT AGENCY REGULAR MEETING**

**7:00 P.M.**

**CALL TO ORDER**

(Mayor/Chairperson Tate)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS**

**RECOGNITIONS**

Leadership Morgan Hill Donation

**INTRODUCTIONS**

Wayne Bell  
*Police Officer*

Scott Martin  
*Police Officer*

Tim Moon  
*Community Service Officer*

Jennifer Ponce  
OES Coordinator

Carson Thomas  
*Police Officer*

Lisa Velasco  
*Senior Human Resources Coordinator*

**CITY COUNCIL REPORTS**

Council Member Grzan

**CITY COUNCIL COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE ITEM IS ADDRESSED BY THE COUNCIL AND FOR THE REDEVELOPMENT AGENCY. PLEASE COMPLETE A SPEAKER CARD AND PRESENT IT TO THE CITY CLERK/AGENCY SECRETARY.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council and Redevelopment Agency Action***

**ADOPTION OF AGENDA**

## ***City Council Action***

**CONSENT CALENDAR:**

**ITEMS 1-10**

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

	Page
<b>Time Estimate</b>	
<b>Consent Calendar: 1 - 10 Minutes</b>	
1. <b><u>RESOLUTION AMENDING THE CITY’S CONFLICT OF INTEREST CODE REPORTING CATEGORIES</u></b> .....	1
<b>Recommended Action(s):</b> <b><u>Adopt</u></b> Resolution Amending the List of Positions Subject to the City’s Conflict on Interest Code.	
2. <b><u>RESOLUTION SUPPORTING THE SUBMITTAL OF A FUNCTIONAL CLASSIFICATION CHANGE FOR LOCAL STREETS AND ROADS</u></b> .....	7
<b>Recommended Action(s):</b> <b><u>Adopt</u></b> Resolution Supporting the Submittal of a Functional Classification Change for Local Streets and Roads to the Department of Transportation to Include Butterfield Boulevard as a Principal Arterial.	
3. <b><u>PROGRAM SUPPLEMENT AGREEMENT FOR THE WEST LITTLE LLAGAS CREEK TRAIL PROJECT</u></b> .....	11
<b>Recommended Action(s):</b>	
1. <b><u>Approve</u></b> the Program Supplement Agreement with Caltrans for the West Little Llagas Creek Trail Project, Subject to Review and Approval by the City Attorney; and	
2. <b><u>Adopt</u></b> Resolution Designating the City Manager as the City Official Authorized to Sign the Program Supplement Agreement Number N011.	
4. <b><u>AQUATICS CENTER BLEACHER INSTALLATION AND DONATION</u></b> .....	19
<b>Recommended Action(s):</b>	
1. <b><u>Recognize</u></b> the Leadership Morgan Hill Class of 2008, Joseph J. Albanese, Inc., and E.J. Pires Trucking, Inc. for Their Efforts to Install Bleachers at the Morgan Hill Aquatics Center; and	
2. <b><u>Accept</u></b> the Donation of the Bleachers from Morgan Hill Pop Warner Youth Football.	
5. <b><u>AWARD CONSTRUCTION OF THE THIRD STREET UNDERGROUNDING UTILITIES PROJECT</u></b> .....	25
<b>Recommended Action(s):</b>	
1. <b><u>Approve</u></b> Project Plans and Specifications;	
2. <b><u>Award</u></b> Contract to Giacalone Electric for the Construction of the Third Street Undergrounding Utility Project in the Amount of \$236,364.50; and	
3. <b><u>Authorize</u></b> Expenditure of Construction Contingency Funds Not to Exceed \$23,636.	
6. <b><u>GRANT OF FLOOD PROTECTION EASEMENT TO THE SANTA CLARA VALLEY WATER DISTRICT FOR A PORTION OF CITY OWNED LAND ALONG LLAGAS CREEK</u></b> .....	29
<b>Recommended Action(s):</b>	
1. <b><u>Approve</u></b> the Granting of the Easement to the Santa Clara Valley Water District; and	
2. <b><u>Authorize</u></b> the City Manager to Execute the Easement Deed on Behalf of the City, Subject to Review and Approval by the City Attorney.	
7. <b><u>APPOINTMENT TO FILL AN UNEXPIRED TERM ON THE LIBRARY, CULTURE &amp; ARTS COMMISSION</u></b> .....	39
<b>Recommended Action(s):</b> <b><u>Confirm</u></b> the Mayor’s Appointment of Victor Gaxiola to the Library, Culture & Arts Commission, Term Expiring April 1, 2010.	
8. <b><u>APPOINTMENT OF CITY ATTORNEY</u></b> .....	41
<b>Recommended Action(s):</b>	
1. <b><u>Appoint</u></b> Danny Wan as City Attorney for the City of Morgan Hill;	
2. <b><u>Approve</u></b> the Employment Agreement; and	
3. <b><u>Authorize</u></b> the Mayor to Execute it on Behalf of the City.	

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

9. [\*\*ADOPT ORDINANCE NO. 1901, NEW SERIES\*\*](#) .....49  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1901, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT UNDER APPLICATION, DAA-05-06C: GINGER – CUSTOM ONE.**
10. [\*\*ADOPT ORDINANCE NO. 1902, NEW SERIES\*\*](#) .....55  
**Recommended Action(s):** Waive the Reading, and Adopt Ordinance No. 1902, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION OF A 5.3-ACRE SITE LOCATED NEAR THE NORTHWEST CORNER OF BARRETT AVENUE AND BUTTERFIELD BOULEVARD FROM ML, LIGHT INDUSTRIAL (PLANNED DEVELOPMENT) TO R3, MEDIUM DENSITY RESIDENTIAL (PLANNED DEVELOPMENT) AND ADOPTING A PRECISE DEVELOPMENT PLAN FOR A CONGREGATE CARE RETIREMENT RESIDENCE (GPA-08-10/ZA-08-12: BARRETT – COLSON & COLSON CONSTRUCTION COMPANY).**

## ***Redevelopment Agency Action-***

### **CONSENT CALENDAR:**

#### **ITEM 11**

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

11. [\*\*APPLICATION TO ASSOCIATION OF BAY AREA GOVERNMENTS FOR PRIORITY DEVELOPMENT DESIGNATION FOR DOWNTOWN UNDER THE FOCUS PROGRAM\*\*](#) ..... 61  
**Recommended Action(s):** Adopt Resolution, Which Authorizes the Executive Director to Submit an Application and Grant Documents to the Association of Bay Area Governments for a Priority Development Designation for Downtown Under the FOCUS Bay Area Program.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 12-15**

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

12. [\*\*AWARD OF CONTRACT FOR THE PERMANENT SKATEBOARD PARK PROJECT\*\*](#) ..... 83  
**Recommended Action(s):**  
1. Award Contract to Robert A. Bothman, Inc. in the Amount of \$581,279 for Construction of the Skateboard Park Project; and  
2. Authorize a Construction Contingency of \$30,000 (5%).

	Time Estimate		Page
		<b>Consent Calendar: 1 - 10 Minutes</b>	
13.		<b><u>AWARD OF CONTRACT FOR THE CENTENNIAL RECREATION CENTER PARKING LOT EXPANSION PROJECT</u></b> .....	89
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Authorize</u></b> the Transfer of \$76,000 in RDA Funds (317) from the Outdoor Sports Complex Project (115A02) into the Centennial Recreation Center Parking Lot Expansion Project (229A07);	
		2. <b><u>Award</u></b> Contract to Robert A. Bothman, Inc. in the Amount of \$182,210 for the Centennial Recreation Center Parking Lot Expansion Project; and	
		3. <b><u>Authorize</u></b> a Construction Contingency of \$10,000 (5%).	
14.		<b><u>AWARD OF FRIENDLY INN/SENIOR CENTER – ABATEMENT AND DEMOLITION PROJECT</u></b> .....	93
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Approve</u></b> Project Plans and Specifications;	
		2. <b><u>Award</u></b> Contract to Asbestos Management Group of California, Inc. for the Abatement and Demolition of the Friendly Inn/Senior Center Project in the Amount of \$65,485; and	
		3. <b><u>Authorize</u></b> Expenditure of Demolition Contingency Funds Not to Exceed \$13,097.	
15.		<b><u>APPROVE JOINT SPECIAL &amp; REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 17, 2008</u></b> .....	97

## City Council Action

### PUBLIC HEARINGS:

	Time Estimate		Page
16.	10 Minutes	<b><u>THE MUSIC TREE/THE MUSIC HOUSE – COMPROMISE, SETTLEMENT, AND LEASE AMENDMENT AGREEMENT</u></b> .....	133
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <b><u>Authorize</u></b> the Executive Director to Execute the Compromise, Settlement and Lease Amendment Agreement Between the Morgan Hill Redevelopment Agency and Darin Dixon d/b/a the Music Tree and The Music House for the Units Located at 17470 Monterey Road and 17490 Monterey Road Unit 1, Respectively, and Implement the Provisions of the Agreement, Including Lease Execution.	

## City Council Action

### OTHER BUSINESS:

	Time Estimate		Page
17.	60 Minutes	<b><u>DEVELOPMENT SERVICE CENTER FURNITURE</u></b> .....	177
		<b><u>Recommend0d Action(s):</u></b> <b><u>Authorize</u></b> the City Manager to Execute a Purchase Order(s) with the Selected Company(ies) for the Phase I and/or Phase II Furniture for the Development Service Center.	

	<b>Time Estimate</b>		<b>Page</b>
		<b>Consent Calendar: 1 - 10 Minutes</b>	
18.	10 Minutes	<b><u>OFFICE ON VIOLENCE AGAINST WOMEN FISCAL YEAR 2008 GRANT</u></b> .....	179
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Accept</u></b> the Grant from the Office on Violence Against Women for Domestic Violence Investigation and Advocacy Services; and	
		2. <b><u>Authorize</u></b> the City Manager to Sign the Acceptance Forms, Subject to Review and Approval by the City Attorney.	
19.	5 Minutes	<b><u>QUARTERLY REPORT TO THE CITY COUNCIL FROM THE REGIONAL PLANNING &amp; TRANSPORTATION COMMITTEE</u></b> .....	195
		<b><u>Recommended Action(s):</u></b> <b><u>Accept</u></b> Report.	
20.	5 Minutes	<b><u>UTILITIES AND ENVIRONMENT COMMITTEE QUARTERLY REPORT</u></b> .....	203
		<b><u>Recommended Action(s):</u></b> <b><u>Accept</u></b> Report.	

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
21.	5 Minutes	<b><u>ADVERTISING CAMPAIGN WITH SILICON VALLEY/SAN JOSE BUSINESS JOURNAL</u></b> .....	207
		<b><u>Recommended Action(s):</u></b> <b><u>Authorize</u></b> the Executive Director to Execute a Purchase Order with the Silicon Valley/San Jose Business Journal in an Amount Not to Exceed \$74,000 for the Purpose of Attracting Businesses to Morgan Hill.	

### **FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

## ***City Council Action***

### **CLOSED SESSIONS:**

1.  
**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Authority Government Code 54957  
Public Employee Performance Evaluation: City Manager  
Attendees: City Council, City Manager

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

### **ADJOURNMENT**

### **NOTICE**

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

### **PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA**

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

### **PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA**

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

### **NOTICE**

#### **AMERICANS WITH DISABILITIES ACT (ADA)**

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

### **NOTICE**

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

### **NOTICE**

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.